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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
LCI's Petition for Expedited Declaratory	)	CC Docket No. 98-5
Rulings regarding its "Fast Track" Plan to	)	
Expedite Residential Local Competition	)	

TO: The Commission

COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc.

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SUMMARY[1]

Although LCI characterizes its "Fast Track" proposal as offering added benefits for telecommunications consumers, and especially residence consumers, its filing is devoid of any specifics regarding the claimed benefits. Moreover, an analysis of the likely effects of adopting LCI's proposal reveals that it would in fact do more harm than good for consumers, since it would unnecessarily and severely handicap an entire category of service providers: the BOCs. Indeed, while all other competitors could be offering customers the multi-faceted packages of communications services that they need and desire, the BOCs alone would stand unable to do so under LCI's plan, to no one's benefit except the BOCs' competitors. LCI offers no explanation whatsoever as to why, of the 1,300 incumbent LECs in this country, and the thousands of other telecommunications providers, only the BOCs should be subjected to the constraints it is proposing.

LCI suggests that, in exchange for a "rebuttable presumption" of entitlement to interLATA relief, the severest form of structural separation should be imposed upon BOCs to neutralize the supposed conflict of interest they have between being wholesale providers of network capabilities and retail providers of finished services. However, the data regarding actual new entry into the local exchange business, at least within SBC's territories, clearly disprove LCI's claim. The three main areas in which LCI asserts that BOCs are impeding new entry -- OSS access, UNE combination and pricing -- in SBC's territories obviously are not acting as any impediment. To the contrary, the data show unequivocally that those parties truly desiring to enter the local exchange business within

[1] Abbreviations used in this Summary are referenced within the text.

SBC's BOC territories have been fully able to do so, and are as of this date in the process of competing for, and winning, SBC local service customers.[2] Within SWBT territory alone over 1.44 million CLEC orders have been processed and over 600,000 access lines have been lost to competitors. The fact is that competitors go where the profit is and they cannot make a profit competing for the broad base of highly subsidized ILEC residence customers. Once BOCs are allowed into the interLATA business their competitors will flock to compete for residence consumers, since they will have to do so to win customers' long distance business in a market where BOCs are offering both as a package.

Even if LCI's proposal were needed, implementing it would exceed the Commission's jurisdiction. Despite being characterized as "optional," it would likely become the de facto standard for BOC interLATA entry, and as such would constitute an unlawful extension of the statutory competitive checklist for interLATA relief under Section 271 of the 1996 Act, illegally creating a 15th checklist element. Even if the proposal remained truly optional, enforcing compliance with the option would exceed the Commission's jurisdiction by delving into such areas as BOC corporate structure, percentage of BOC affiliates that are publicly owned, and even compensation, bonuses and stock options of BOC affiliates' employees. Furthermore, most of the areas covered by LCI's proposal that are properly subjected to regulation are within the exclusive jurisdiction of the state commissions in any event.

LCI's so-called "seven minimums" are perhaps more aptly named the "seven manacles," for their only effect would be to handcuff the BOCs in all of their competitive

[2] The term "SBC" herein refers to SBC's three BOC subsidiaries, Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell.

efforts, singling them out from every other competitor in the industry in spite of expressed consumer desire for each competitor to be able to offer the full range of services. In addition, LCI glosses over potentially critical Universal Service ramifications and baseless inconsistencies in the regulation of directly competing rivals.

LCI's proposal is unnecessary, unfounded and unlawful, and therefore should be rejected.

TABLE OF CONTENTS

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In the Matter of:	)	
	)	
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COMMENTS OF
SBC COMMUNICATIONS INC.

SBC Communications Inc. ("SBC"), by its attorneys, and on behalf of its Bell Operating Company ("BOC") subsidiaries, Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell, respectfully files these Comments regarding the January 22, 1998 Petition of LCI International Telecom Corp. for Expedited Declaratory Rulings ("LCI/Petition"). LCI asks the Commission to declare that, if any BOC voluntarily adopts an extreme form of structural separation for its competitive lines of business, (as well as numerous other punitive terms and conditions), then such BOC will be entitled to a "rebuttable presumption" that it has met the statutory checklist for interLATA relief under Section 271 of the Telecommunications Act (47 U.S.C. Section 271). The details of LCI's proposal reveal that it would disserve consumers and the public interest in general. For the reasons stated herein, the Petition should be rejected.

I. INTRODUCTION

LCI states its belief that local exchange service competition is at a "stalemate" because BOCs allegedly have conflicting interests between being wholesale network suppliers on the one hand, and competitive service providers on the other hand.[1] LCI claims that this supposed conflict has motivated BOCs to raise barriers to local service entry on three fronts: (1) access to their Operations Support Systems ("OSSs"); (2) delivery of unbundled network elements ("UNEs") to Competitive Local Exchange Carriers ("CLECs"); and (3) BOC prices for the various functions/services that all incumbent local exchange carriers ("ILECs") must offer to CLECs under the 1996 Telecommunications Act ("1996 Act" or "Act").[2]

According to LCI, the only way to eliminate this supposed BOC conflict of interest and, therefore, the perceived barriers to market entry, is to offer BOCs an incentive to remove the conflict themselves. Therefore, LCI suggests that, in exchange for voluntarily adopting a drastic form of structural separation for all their competitive lines of business, BOCs be given a "rebuttable presumption" that they have met the Act's 14-point competitive checklist and public interest test.[3] However, LCI's offer is merely the "sleeves out of its vest." No BOC is to receive the benefit of this presumption until it has not only offered documented proof of full compliance with the whole 14-point checklist, but also has met LCI's so-called "seven minimum" requirements. The "seven minimums" require totally separate BOC wholesale ("NetCo") and retail ("ServeCo") affiliates, a host of specific prohibitions on what the NetCo and ServeCo can do in the

[1] LCI Petition at pp. 11-12.
[2] Id. at pp. 5-11.
[3] Id. at pp. 14-17.

marketplace, a balloting and allocation process for customers, specific sets of regulations for the two kinds of BOC affiliate, and general Universal Service administration provisions.[4] LCI asserts that this extreme form of regulatory management over BOC business operations is the only way to produce increased benefits of competition for consumers.

Although LCI trumpets its plan as the very salvation of the local exchange service residence consumer, any semblance of specific, tangible benefit for such consumers is starkly lacking from its filing. Indeed, upon analysis of the likely effects of this plan, it becomes readily apparent that, if anything, the result would be harmful for residence consumers and, in fact, for all telecommunications consumers in the United States.

Furthermore, although LCI characterizes its proposal as "optional" for BOCs and therefore assertedly not in conflict with any provision of the 1996 Act, even if the proposal remained optional, in practice its adoption would violate the express terms of the Act. The other potential result -- that this plan would become a de facto requirement for interLATA relief -- would even more violently conflict with the 1996 Act and the intent of Congress.

Having been thwarted by the Courts now on multiple occasions, LCI's Petition amounts to nothing more than yet another attempt by competitors like LCI to artificially handicap the BOCs in their provision of competitive services as the price BOCs must pay for permission to enter the interLATA market. LCI's Petition should be rejected.

[4] Id. at pp. 17-23.

II. LCI'S FILING FAILS TO SHOW HOW ITS PROPOSAL WOULD BENEFIT ANY CONSUMERS, LET ALONE RESIDENCE CONSUMERS, SHORT-TERM OR LONG-TERM.

At the outset, SBC wishes to stress that all carriers should remain generally free to adopt whatever corporate structure will best meet their business objectives and serve communications customers' needs, on terms that carriers themselves determine to be expedient. Regulators should not, as a general proposition, attempt to inject themselves into such areas of legitimate business decision-making by the nation's carriers. Such intrusiveness runs a serious risk of exceeding the Commission's authority and, in any event, simply is not necessary for the telecommunications industry to develop in a manner that best serves customer desires and requirements. Yet, LCI's Petition seeks to guide the Commission down precisely that ill-advised path, encouraging it to exacerbate the current BOC competitive disadvantage (i.e., of the hundreds of Communications competitors today, only the five BOC entities are prohibited from offering interLATA services).

The essence of the LCI proposal is that BOCs voluntarily submitting to the most draconian form of "structural separation" imaginable for their competitive lines of business, would be given a "rebuttable presumption" that they had met the Section 271 competitive checklist for interLATA relief.[5] This presumption would not arise until after a BOC had filed a Section 271 application which on its face appeared to meet all of the established requirements for approval. LCI claims that such voluntarily assumed corporate structures for the BOCs would render regulators' jobs easier in terms of ensuring against imagined, unproved dangers such as BOC cross-subsidization and

[5] Id. at pp. 14-17.

interconnection discrimination.[6] LCI avers that BOCs operating under these structures would have reduced incentives to engage in such misconduct.[7] LCI further claims that BOCs operating under such corporate structures would be much less able to garner what it views as unfair competitive advantages than under other corporate structures.[8]

It may be true that LCI's proposal might possibly facilitate regulators' efforts to guard against dangers that do not exist, but that of course is no benefit at all. It clearly would be true that, under the corporate structure suggested by LCI, the BOCs' competitive abilities would be reduced, but that is only because under LCI's proposal BOCs would relinquish literally all of their internal efficiencies. But all that aside, nowhere in LCI's Petition does it demonstrate any specific, tangible benefits for residence consumers were its proposal to be adopted. There are essentially only two means by which residence telecommunications consumers might be advantaged to a greater degree than they are today -- either through lower prices or additional/better services -- and LCI completely fails to show how adopting its proposal would effect either result.

A. Millions Of Residence Consumers Today Receive Local Exchange Service From Incumbents At Prices Below Cost.

It is beyond debate in our industry that, today, many millions of residence consumers are receiving basic local exchange service from ILECs at prices that are

[6] See SBC v. FCC, No. 7:97-CV-163-X, Memorandum Opinion and Order (N.D. Tex. December 31, 1997).

[7] LCI Petition at pp. 11-12. SBC shows below in Section III that BOCs have no such in incentives in the first place and, in fact, that they have precisely the opposite incentives considering all relevant factors.

[8] Id. at pp. 5-11.

significantly below the actual costs of providing that service, because of an intricate web of explicit and implicit subsidies consciously built into the industry by its regulators over the past sixty years. Even if all the other claimed benefits of LCI's proposal were somehow magically to come about, no explanation has been provided as to how prices could be lowered for these already highly subsidized consumers. Under its plan LCI and similar companies could perhaps offer optional (i.e., vertical) residence services at lower prices than BOCs do today, but only because BOCs must continue to use revenues from such vertical services to subsidize residential basic local exchange service. BOCs theoretically could lower prices for their vertical services, thus diminishing revenues available to support Universal Service, but the result of that BOC reaction would be upward pressure on rates for basic local exchange service, thereby threatening Universal Service -- certainly not something that would inure to the benefit of residence consumers in general. For competition to develop in the local residence market, BOCs must be allowed into the interLATA market. Only then will other competitors race to serve local residence consumers, because they know they will have to do so to compete against BOCs offering packages of such services.[9]

To be sure, under LCI's plan it would easily be able to offer lower prices for competitive services to the business segment, since all the BOCs would be stripped of every internal efficiency they may have, essentially spun off into the intensely competitive business telecommunications market with zero assets and zero market share. But that would be the result of a completely unjustified, regulatory deprivation of natural efficiencies for BOCs, and it would only exist in the business market. LCI hasn't even

[9] See Attachment A, "Local Exchange Competition Under the 1996 Telecom Act,"

attempted to show how embracing its plan would lower prices for residence telecommunications consumers in general.

B. Innovative Residence Services Are Already Being Introduced Frequently And Economically.

Neither does LCI show how adopting its proposal would improve in any way the overall quantity or quality of telecommunications services available to residence consumers. In fact, the data show that incumbent LECs are doing quite well in serving consumers' needs in that area.

For example, Southwestern Bell Telephone Company ("SWBT") for some time now has enjoyed the highest Caller ID penetration rate in the United States (as of December 1997, 47 percent). Also, SWBT's overall vertical services penetration level is 2.27 features per line. PacBell's additional line penetration is 28 percent. Call Waiting Deluxe (combined Caller ID/voice mail) will roll out in SWBT territory in 1998. Asymmetrical Digital Subscriber Line (ADSL) also will roll out in both SWBT and PacBell soon. Collectively, the BOCs have introduced real competition -- at the residence level -- for voice messaging services since being allowed to do so on an integrated basis ten years ago.[10] The BOCs' deployment of Integrated Services Digital Network ("ISDN") technology across the country has made numerous vertical services available, due to the increased bandwidth that ISDN offers all users, including residence consumers. The recently announced joint effort among certain BOCs (including SBC), Microsoft, Compaq and Intel to develop a faster Internet connection over a common

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Huber, November 4, 1997.

[10] See Section III(B)(2), infra.

copper wire loop also evidences the incumbents' ability and incentive to produce valuable new vertical services that will benefit all residence consumers.

LCI simply has not shown how implementing its proposal would bring about any improvement for residence consumers in terms of adding value in the area of optional or vertical services.

C. LCI's Proposal Would In Fact Result In Substantial Harm To Residence Consumers.

As shown in detail within Section VI below, LCI's proposal would so completely hamstring the BOCs' competitive efforts in the long distance arena that it would have the effect of either keeping them out of that market indefinitely, or requiring them to enter on terms that would render them ineffective competitors. In either case, the residence consumer would of course be denied the benefits of increased competition that would come about were the BOCs allowed to compete effectively. Instead, residence consumers would remain relegated to the current hopeless long distance oligopoly situation, wherein a handful of large interexchange carriers ("IXCs") essentially control the market and all pricing.[11]

LCI's proposal would not only strengthen the current large IXC oligopoly grip on the residence long distance market, but would also extend that grip into the local exchange service market. These huge carriers could easily dominate the residence market, at least for the high user category, since they could undercut the incumbents' subsidy-laden prices for vertical services and intraLATA toll by capturing revenues used today to support Universal Service, and without fear of competitive response from the

[11] See Attachment A, "Local Exchange Competition Under the 1996 Telecom Act."

BOC. This is because under LCI's plan a BOC's retail/competitive affiliate (the "ServeCo") would be prohibited from marketing interLATA services to any end user until it had "won" that customer's local service from its wholesale/supplier affiliate, (the "NetCo").[12] Today's Large IXCs, on the other hand, would be under no such restriction.

Thus, these IXCs could market whole packages of basic local, vertical and long distance services to the entire existing BOC customer base from the very start of the race, while the BOCs stood gagged and bound at the starting line, unable to offer such appealing (indeed, essential) service packages. A ServeCo representative would have to say, in response to a customer question about long distance services, that ServeCo could not offer the customer long distance -- nor could the representative even tell the customer anything about ServeCO's long distance offerings -- until the customer committed to buy local service from ServeCo.

Asking customers to "buy blind" in such a manner would constitute a severe impediment to BOC ServeCo sales efforts. The result would be BOC NetCos left with all the low use, high cost residence consumers, with large IXCs capturing all the high use residence consumers, along with associated substantial vertical service revenues, thereby extending the ironclad long distance oligopoly they enjoy today into the lucrative end of the local/residence market as well.[13]

More importantly, the negative effects of LCI's plan on BOCs would be felt equally by consumers. SBC's research clearly reveals that most telecommunications

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[12] LCI Petition at p. 31.

[13] LCI offers that eventually this low use/high cost customer base would be eliminated from the BOCs' NetCo affiliates via a ballot and allocation process, but of course not until others were permitted to pick off all the high use BOC customers with package deals forbidden to the BOCs' ServeCo affiliates. Id.

consumers today desire -- indeed, demand -- "one-stop shopping."[14] The consumer's ability to obtain solutions to all his/her communications needs from a single provider has become of paramount importance in today's highly complex, multiple technology, option-rich environment. Yet, under LCI's proposal, while the BOCs' rivals would continue to be able to offer consumers this critical capability, the BOCs would continue to be prohibited from doing so. To the detriment of all consumers, under LCI's plan a BOC's ServeCo affiliate could not market any interLATA services at all to any customer until it had "won" that customer's local service from its "NetCo" wholesale affiliate.

Furthermore, the entire trend in the telecommunications industry, for several years now, has been in the general direction of consolidation -- not fragmentation.[15] LCI's proposal bucks that trend significantly, and discriminatorily, by imposing dramatic fragmentation upon just one specific group of competitors: the BOCs. If the Commission decides that a separate wholesale/retail corporate structure is best for the telecommunications industry, then it should apply that regulation to all industry participants. Finally, considering today's trend of everyone straining to get into everyone else's business,[16] we are at the point where most players are, or soon will be, engaged in all major aspects of telecommunications in any event. That being the case, it makes no sense to single out only the BOCs for any structural separation requirement along wholesale/retail lines.[17]

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[14] See Attachment A, as well as Attachment B, November 14, 1996 Affidavit of William E. Taylor and Paul B. Vasington.

[15] Id.

[16] Id.

[17] LCI's claim that its proposal would speed current processes is also unfounded. The time it would take any BOC to adopt such total separation would be substantial, considering these companies' size and current level of integration. LCI also ignores the

III. THERE IS NO CONFLICT OF INTEREST BETWEEN THE BOCS' ROLE AS NETWORK SUPPLIERS AND THEIR ROLE AS SERVICE PROVIDERS.

Underlying the entire LCI Petition is the presupposition that the BOCs today are laboring under an insurmountable conflict of interest as between their activities as ILEC suppliers of interconnection to, and the unbundled network elements of, the public switched network on the one hand, and their activities as providers of competitive services on the other hand.[18] However, LCI has greatly mischaracterized the true nature of the balance between these BOC interests.

A. The Prospect Of InterLATA Relief Yields Ample Incentive For BOCs To Meet Their Obligations As Network Suppliers.

The importance of interLATA freedom for BOCs is demonstrated fully in Attachment A, particularly the portions dealing with the actual experiences in Connecticut and the United Kingdom (pp. 43-53). Indeed, BOCs have incentive enough deriving from their clear legal obligation under Section 251 alone. Considering the significant benefits of interLATA relief, they have more than ample incentives to meet their obligations as network suppliers. SBC certainly would not have spent $1 billion already for compliance with interLATA-related requirements, unless interLATA relief was indeed important.[19]

Moreover, the added incentive produced by the prospect of interLATA relief will not disappear, for any BOC, at any time after initial receipt of that relief. Section

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tremendous costs of fragmenting such large companies, as well as the issue of who would pay those costs.

[18] LCI Petition at pp. 11-12.

[19] See Attachment C, "SBC's Success In Opening Its Local Markets: Significant Local Competition Exists and Is Growing," February 1998 Report, p. 1.

271(d)(6)(A) specifically provides that "[i]f at any time after the approval of an application . . . the Commission determines that a Bell operating company has ceased to meet any of the conditions required for such approval, the Commission may suspend or revoke such approval."

B. Even If InterLATA Relief Were An Inadequate Incentive For BOCs, There Is No Reason To Believe That The Act's Nonstructural Safeguards Would Be Ineffective.

1. Congress Considered Numerous Options, Including The Draconian Type Of Structural Separation Urged By LCI, And Deliberately Rejected That Sort Of Extreme Measure.

In its Report on H.R. 1555, one of the two bills which ultimately formed the content of the 1996 Act, the House explained, "Sections 246(c) and (d) mandate fully separate operations and property . . . between the BOC and its [interLATA] subsidiary."[20] However, as enacted, the 1996 Act permits BOCs and their interLATA affiliates to jointly market (47 U.S.C. Section 272(g)), it permits a BOC to provide "any facilities, services, or information concerning its provision of exchange access" to its interLATA affiliate as long as they are made equally available to others (47 U.S.C. Section 272(e)(2)), and it permits a BOC to provide "any interLATA or intraLATA facilities or services to its interLATA affiliate" if available to others on the same terms (47 U.S.C. Section 272(e)(4)).

Thus, Congress has already fully considered and debated even the type of total separation espoused in LCI's Petition, and has rejected it in favor of a partial separation that does allow, under certain conditions, important shared activities between BOCs and

[20] House Report on H.R. 1555 (Report No. 104-204), 104th Congress, 1st Session, July 24, 1995, p. 79 (emphasis added).

their interLATA affiliates in order to benefit consumers. Furthermore, Congress determined that it was appropriate for even that partial separation to be lifted entirely after three years (see 47 U.S.C. Section 272(f)(1)). Therefore, it would conflict with Congressional intent for the Commission now to rule that BOCs receive the benefit of an evidentiary presumption only if they unilaterally adopt a total separation corporate structure.

2. The Enhanced/Information Service Industry Experience Under BOC Nonstructural Safeguards Proves That Such Safeguards Are Very Effective.

The BOCs have been offering highly competitive enhanced/information services under the Commission's set of Computer Inquiry III nonstructural safeguards for over ten years, with absolutely no sign of adverse effects upon competition in that market.[21] Despite dire predictions of total doom from the BOCs' enhanced service provider ("ESP") competitors in the CI-III proceedings, the Commission saw that it would serve only to stimulate healthy marketplace competition for the BOCs to be able to draw from the natural operational efficiencies of structural integration, provided that the proper set

[21] Amendment of Section 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), Report and Order, 104 FCC 2d 958 (1986) (Phase I Order), modified on reconsideration, 2 FCC Rcd 3035 (1987) (Phase I Reconsideration),further reconsideration, 3 FCC Rcd 1135 (1988) (Phase I Further Reconsideration), second further reconsideration, 4 FCC Rcd 5927 (1989) (Phase I Second Further Reconsideration); Report and Order, 2 FCC Rcd 3072 (Phase II Order), modified on reconsideration, 3 FCC Rcd 1150 (1988) (Phase II Reconsideration), further reconsideration, 4 FCC Rcd 5927 (1989) (Phase II Further Reconsideration); rev'd sub nom. California v. FCC, 905 F.2d 1217 (9th Cir. 1990) (California I). In the Matter of Computer III Remand Proceedings in CC Docket No. 90-623, Report and Order, 6 FCC Rcd 7571 (1991) (BOC Safeguards Order), rev'd in part sub nom. California v. FCC, 39 F.3d 919 (1984) (California III). On Remand, Notice of Proposed Rulemaking, CC Docket No. 95-20, released February 21, 1995 (pending). Further Notice of Proposed Rulemaking adopted January 30, 1998, CC Docket Nos. 95-20 and 98-10.

of nonstructural safeguards was in place. Time has proved that decision to be plainly correct. To SBC's knowledge, not a single formal complaint has been filed with the Commission by an ESP alleging anticompetitive conduct on the part of a BOC. Now, nearly twelve years after the First Report and Order in CI-III, enhanced services are robust and competitive throughout the United States.

Furthermore, BOCs clearly have not dominated the ESP/ISP industry, by any stretch of the imagination, despite being allowed to operate in a fully integrated manner. In the U.S. market for Voice Processing Services (i.e., voice messaging, interactive voice response, audiotex), for example, all of the BOCs combined have only a 22 percent share of the market, based upon 1997 revenues. SBC has only a 4.6 percent market share. In the Internet Access market nationally, the BOCs together have only about a 1 percent share. By comparison, the top five providers (AT&T, GTE/BBN, MCI, Sprint and WorldCom) collectively have a 39 percent market share. For 1997, in the business ISP segment alone, there were 25 national/global providers, 1,000 regional providers, and 2,800 resellers. Without question, BOC integration of enhanced/information services under the Commission's CI-III nonstructural safeguards has had only beneficial effects upon competition.

Most recently, the Commission tentatively reaffirmed the efficacy of nonstructural safeguards in the BOC enhanced/information service context by adopting a Further Notice of Proposed Rulemaking in CC Docket Nos. 95-20 and 98-10. The Further Notice proposes the continued use of such safeguards, (possibly with some modifications to the enhanced service-related unbundling requirements), despite the 1994 Ninth Circuit reversal of the Commission's last Order in CI-III. The 1996 Act's safeguards regarding

BOC provision of interLATA services are even more stringent than the Commission's CI-III safeguards. The statutory interLATA safeguards require a form of structural separation (albeit not nearly as restrictive as what LCI urges here) for the first three years that a BOC utilizes interLATA relief, (and even beyond that if the Commission finds it necessary). Thus, there is simply no reason to believe that the competitive safeguards crafted by Congress will be ineffective concerning BOC interLATA activities, even if the Commission had the jurisdiction to disregard Congress' safeguards (which it does not have).

3. The Experience In Other Areas Shows That Drastic Structural Separation Is Unnecessary In The Local Exchange Service Industry.

LCI makes much of the regulation of the electric power industry, particularly its use of wholesale/retail structuring for the incumbents.[22] However, comparing that industry to the telecommunications industry is a fatally flawed analogy.

First, energy incumbents had no incentive to facilitate new entry at the retail level because they faced only a reduction in their customer base with no opportunity for an increased return. BOCs, in marked contrast, are presented with the opportunity for a greatly increased overall return, due to the lucrative nature of the interLATA business, if they act to facilitate new entry into their retail local exchange business. SBC has already demonstrated above that the BOCs indeed have a powerful incentive to facilitate local service competition, and thus have no "conflict of interest" as asserted by LCI.

Second, unlike the electric energy industry, the telecommunications industry will

[22] LCI Petition at pp. 35-36.

be experiencing staggering growth over at least the next decade.[23] This growth will provide much more substantial opportunity for both wholesalers and retailers in the telecommunications industry.

Third, the legitimate viability of competing physical networks is virtually nonexistent in the electric energy industry, while it is a probability in telecommunications (indeed, the record in many FCC proceedings already shows a great deal of new entrant activity on a facilities basis). The threat of competing networks is compelling incentive for incumbent LECs to serve their resale customers fairly and conscientiously.

There are other examples wherein large incumbents sold their products at both wholesale and retail with no ill effects upon competitive development. AT&T's equipment subsidiary sold Customer Premises Equipment ("CPE") at wholesale to many retail vendors at the same time that it was retailing the same products. Even during those early years of competitive CPE, this combined wholesale/retail activity, by the industry giant of the time, had absolutely no harmful effects upon the development of competition in that market. Although AT&T was subject to a form of structural separation for its provision of CPE, the required separation was between its CPE operations and its network services operations -- not between its wholesale and retail CPE businesses.

Wireless competition has also burgeoned without any forced wholesale/retail split by BOC wireless affiliates. Prices have declined while the number of subscribers has grown explosively, despite the fact that BOC wireless affiliates have been subject to virtually no price regulation. Long distance competition also developed without any need

[23] See Attachment A.

for a wholesale/retail split of the incumbent in that industry, AT&T. No such split is necessary in the local exchange market segment either.

IV. LCI'S THREE ALLEGED BARRIERS TO LOCAL SERVICE ENTRY DO NOT EXIST WITHIN SBC'S TERRITORY.

LCI asserts that local exchange competition is being stifled in this country due to alleged BOC misconduct in three general areas: (1) access to BOC Operations Support Systems ("OSSs"); (2) BOC provisioning of unbundled network elements ("UNEs"); and (3) BOC pricing of services/functions required to be made available by all ILECs to new market entrants.[24] Although SBC is not in a position to address these allegations as they may relate to other parts of the country, it can say unequivocally that, within SBC's own BOC operating territories, none of these three barriers exist.

A. SBC's OSSs Lead The Industry In Meeting New Entrants' Needs.

SWBT leads the industry in providing and making available multiple electronic interfaces to CLECs in parity with SWBT's analogous retail operations, thus affording CLECs non-discriminatory access and a meaningful opportunity to compete in the local exchange market. In fact, SWBT is the only BOC to provide CLECs access to its own service order negotiation system for resold services. Easy Access Sales Environment "EASE") is precisely the same electronic interface that SWBT's own retail service representatives use in pre-ordering and ordering/provisioning service for both residence and business customers. The proven capabilities of the EASE system provide an integrated robust service negotiation pre-ordering and ordering/provisioning application

[24] LCI Petition at pp.6-10, 32-34

for CLECs. Use of EASE obviates the need to develop entire new code sets and facilitates market entry for any CLEC, particularly those with limited information services capabilities. EASE contains over 1,000 edits that ensures a high percentage of error-free flow-through for service orders formatted by the system. EASE is offered as a way for CLECs (large or small) to quickly begin to electronically negotiate resale orders and efficiently transmit these orders to SWBT. As CLECs utilize EASE, SWBT will concurrently continue to work with CLECs on development of interfaces that operate using industry guidelines. This way, the industry standard interfaces will have time to become as robust as EASE to best support significant order volumes over a wide array of services.

The items that follow provide a broad perspective of SWBT's unprecedented accomplishments in facilitating CLECs' access to its OSS functions for pre-ordering, ordering/provisioning, and maintenance/repair, in the short time since the 1996 Act became law.

- SWBT has provided three "real time" access interfaces, ahead of industry guidelines for pre-ordering functions. One interface is the same system used by SWBT's own retail service representatives. The second application is a Windows™ based graphical user interface ("GUI"). The third is an application-to-application interface for those CLECs with their own presentation systems or GUI. Two of these interfaces support both resale services and unbundled network elements, while the other supports resale services only.
- SWBT has provided three primary interfaces available for ordering/provisioning

functions. Two interfaces conform to current industry guidelines and were developed for the CLECs. One of the industry conforming interfaces is a Windows™ based GUI, while the other is an application-to-application gateway; both support resale services and unbundled network elements. The third interface is the same system used by SWBT's own retail service representatives and it is available for resold services.

- SWBT has implemented national guidelines for ordering interfaces within SWBT's OSS functions as they have been developed, and has committed in its interconnection agreements to implement new national guidelines within 120 days of their becoming final, or within the applicable sunrise/sunset timetables set by the national organizations.
- SWBT has accommodated the needs of CLECs by negotiating the implementation of interim ordering arrangements for a variety of electronic interfaces prior to the establishment of national guidelines.
- SWBT has provided two "real time" interfaces for the maintenance/repair function. One is a SWBT-developed Windows™ based GUI. The other is an industry standards conforming application-to-application electronic interface. Both interfaces support resale services and unbundled network elements.
- SWBT has provided five electronic interfaces for access to billing information for resale services and unbundled network elements. These options range from viewing and obtaining bills electronically to mechanically receiving daily usage data feeds.
- SWBT has established dedicated secure access facility for CLEC entry into